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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
07/788,801	11/07/91	BAUMGARTNER	W JEK/BEU

MATECKI EXAMINER

E4M1/0214

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ART UNIT	PAPER NUMBER
2405	16

DATE MAILED: 02/14/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on 12/8/93 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, Form PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1. Claims 2 - 3, 5 - 9 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 2 and 5 - 9 are rejected.

5. Claims 3 is objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable. not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed on 3/8/93, has been approved. disapproved (see explanation).

12. Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has been received not been received
 been filed in parent application, serial no. _____; filed on _____

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

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Applicant's request for the withdrawal of the finality of the Office action mailed July 27, 1993, is persuasive. Therefore, the amendment filed December 14, 1993 has been entered.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 2 and 5-9 are rejected under 35 U.S.C. § 103 as being unpatentable over Morishita in view of Hitachi.

Morishita shows a fishing reel which includes a spool 27 for receiving the fishing line, a cam drive for reciprocating the spool to distribute the line onto the spool, and a spindle 28 to which the spool is connected. The cam drive comprises a guide part 26 connected to the spindle and has an elongated guide slot 31 which receives a cam stud 29. The cam stud 29 is

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eccentrically mounted on a gear 24 to travel in a circular path and cause reciprocation of the spindle and spool in a direction parallel to the longitudinal axis of the spool.

Hitachi shows a traversing mechanism for use in a textile machine which includes a thread guide 13, an S-shaped cam groove 15, and a cam roller 14 which loosely fits into the cam groove to cause reciprocation of the thread guide. The apparatus of Hitachi is useful in connection with high speed winding of thread in a textile environment. The cam groove of Hitachi is S-shaped to control the speed of the thread guide, as illustrated by line 18 in the graph of figure 3, in a manner to cause even winding of the thread. The uniform speed of the guide referred to by Hitachi has the same effect as the decelerations and accelerations recited in the claims, since the claims refer to speeding up and slowing down with respect to the nonuniform speed of the prior art guide, which results in a more nearly uniform guide speed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the guide slot 31 of Morishita in the shape of an S to provide for more even lay of the line onto the spool. The orientation of the slot and other dimensions thereof set forth in claims 5-9, would have been obvious to one skilled in the art through routine experimentation and optimization to determine what shape of cam groove would

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provide the most satisfactory distribution of line onto the spool.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed December 8, 1993, have been fully considered but they are not deemed to be persuasive.

Applicant's amendments to the claims in response to the rejection under 35 USC 112, first paragraph, are sufficient to overcome that rejection. Additional issues regarding the clarity and correctness of the disclosure were discussed at the personal interview held on December 6, 1993. Upon reconsideration, the specification as a whole is considered to be sufficiently clear and complete by the Examiner. The claims remain rejected only as set forth above with respect to the prior art.

In his remarks, Applicant again argues that the Hitachi reference is not analogous to the fishing reel of Morishita. It has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. *In re Wood*, 202 USPQ 171, 174. In this case, the

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Hitachi reference is reasonably pertinent to the problem being addressed by Applicant, because it is concerned with a cam and follower system for traversing an element to provide level winding of a strand onto a spool. It should be noted that Hitachi specifically discloses that his device has general applicability in other environments requiring reciprocation of an element (translation, page 5, lines 3-7).

Applicant now argues that Hitachi is not analogous to Morishita because "textile wefts and warps are not cast and reeled in during weaving." It is pointed out that the level wind of Morishita has no function during casting, since the line is paid off of the end of the spool. The level wind of Morishita is only used for winding, in the same way that Hitachi's level wind is used for winding. Applicant further argues that the problems involved in winding a line onto a reciprocating spool are entirely different than those involved in winding line onto a rotating spool, but does not specify what those different problems are. In the reel of Morishita, the spool is reciprocating while the rotor 20, which carries a guide for the line, rotates therearound to wind line onto the spool. In the device of Hitachi, the spool rotates while the guide reciprocates relative thereto. In both cases, simultaneous relative rotation and reciprocation are occurring between the spool and the guide, and essentially the same effects and problems are encountered.

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In response to Applicant's argument that the Hitachi guide must be rotated 90 degrees and squashed or compressed to fit into a fishing reel, the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art.

THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathy Matecki whose telephone number is (703) 308-2688.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0771.

kam
February 10, 1994

Katherine Matecki

KATHERINE MATECKI
PRIMARY EXAMINER
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